

Filed for intro on 01/29/98
SENATE BILL 2889 By
Henry

HOUSE BILL 2843
By Arriola

AN ACT to amend Tennessee Code Annotated, Title 71, relative to the development of a comprehensive plan for the delivery of long-term care to the elderly and the disabled and its relationship to the medical assistance program.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The general assembly finds that:

(1) Tennesseans want to live at home and be independent, and Tennessee families want to care for frail loved ones at home, for as long as that is possible;

(2) Public funding for long-term care should afford Tennesseans who are in need a choice of a broad array of home- and community-based services, and should not be limited to institutional care.

(3) Public policy should promote the availability of long-term care services that enhance independence, dignity and privacy; and

(4) Tennessee should develop and implement a comprehensive long-term care system responsive to the needs of all Tennesseans regardless of age, disability or economic status.

SECTION 2. Tennessee Code Annotated, Section 71-5-107, is amended by adding to subdivision (a)(21), after the phrase "medical assistance" the phrase "and home- and community-based services".

40000001

40000001

010493

01049357

SECTION 3. Tennessee Code Annotated, Section 71-5-103, is amended by adding to the section the following appropriately designated subsection:

() "Home- and community-based services" means any of the following supportive services and systems which are provided to older persons and individuals with disabilities to remain independent and avoid inappropriate institutionalization and which help individuals maintain physical, social, and spiritual independence in the least restrictive environment:

- (1) living environments and supportive services (assisted care living facilities and homes for the aged)
- (2) personal care, homemaker and chore services;
- (3) adult day services;
- (4) congregate and home-delivered meals;
- (5) home health care;
- (6) rehabilitative care;
- (7) assisted transportation or mobility services; and
- (8) support services to caregivers, including hospice care.

SECTION 4. The commissioner of health and the commissioner of finance and administration, in collaboration with the commission on aging, shall formulate a comprehensive plan to guide the future funding and delivery of long-term care services in Tennessee. The plan shall be submitted to the governor and the members of the general assembly by January 1, 1999, and shall be consistent with the following principles:

- (1) Long-term care programs and services should enhance independence, dignity, choice and individual well being.
- (2) Elderly and disabled Tennesseans will receive the care and services, which are most appropriate to their needs and aspirations.

(3) Long-term care services should be provided at the most economical cost and in the least restrictive setting.

(4) Funding for long-term care services should follow the consumer regardless of delivery method utilized, and without regard to whether such services are categorized as medical care.

(5) Appropriate consumer safeguards should be instituted as part of the home- and community-based services system.

(6) Consumers and families should contribute to the cost of long-term care to the extent that they are financially able to do so.

(7) Long-term care policy should foster wellness and prevention.

(8) Long-term care policy should be coordinated with TennCare and Medicare acute care services in a rational and financially prudent manner.

(9) State long-term care policy should make maximum use of available public funding, including federal financial assistance.

(10) Case managers should not also be service providers for their clients.

(11) Case management should seek to maximize the use of voluntary and existing services.

SECTION 5. Title 71, Chapter 5, Part 1, is amended by adding the following new section:

Section _____. (a) For the fiscal year ending June 30, 1999, five percent (5%) of the total medicaid long-term care budget shall be allocated to fund home- and community-based services for the elderly. An additional five percent (5%) of such budget shall be added to the allocation for home- and community-based services each year for the following three (3) years, or until twenty percent (20%) of the total medicaid budget for long-term care services is made available for home- and community-based services to elderly and disabled persons.

(b) For fiscal years 1999-2005, the department of health shall set goals to reduce the growth in medicaid-funded nursing home admissions so that sufficient funds will

become available for increasing home- and community-based care services. At the end of that period, the allocation of Medicaid funds for long-term care services shall be eighty percent (80%) for institutional care and twenty percent (20%) for home- and community-based services. The percentage of growth of the elderly and disabled population of the state in relation to the general population shall be used as a baseline for determining an appropriate growth level for each year.

(c) In adjusting nursing facility rates to conform to the expenditure limits imposed herein, the commissioner of health and the commissioner of finance and administration shall ensure that:

(1) Any necessary savings are realized from reductions in the reimbursement of indirect costs, as defined by the commissioner of health, and by limitations on related party transactions;

(2) The rate structure does not artificially restrict the nursing home bed supply or restrict consumer access to nursing facility services;

(3) Reimbursement policies comply with all applicable federal laws and court orders; and

(4) Reimbursement policies create incentives for nursing facilities to focus resources on direct patient care, rather than on indirect costs.

(d) Nothing herein shall be construed to limit the amount of medical assistance funding for home- and community-based services. The department of health shall have the authority to develop cost-sharing standards based on consumer income, to give funding priority to those in need of long-term care services who are considered to be the most at risk, and to designate funds as required for the utilization of case managers to provide service coordination and the most efficient utilization of resources. The funding restrictions established herein shall not apply to any nursing facility services which are provided by or through a managed care organization.

SECTION 6.

(a) The commissioner of health is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be developed in consultation with the director of the commission on aging and shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

(b) For purposes of oversight, the department of health shall report progress on establishing a home- and community-based services system to the TennCare Oversight Committee by February 1, of each year.

SECTION 7. This act shall take effect upon becoming law, the public welfare requiring it.